

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Reclassification of License of)	
Class A Television Station W14CK)	Facility ID No. 64078
Newport, Vermont)	
)	

ORDER

Adopted: October 24, 2012

Released: October 26, 2012

By the Chief, Video Division, Media Bureau:

1. This is with respect to station W14CK, Newport, Vermont, licensed to SMC Communications, Inc. ("SMC"). This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").¹

2. By letters dated March 25, 2011 and August 3, 2011, the Video Division of the Media Bureau requested information from SMC regarding its apparent failure to make the required filing of quarterly FCC Form 398 (Children's Television Programming Report) for the station for the fourth quarter in 2007 and all four quarters in 2008, 2009, and 2010.² Both letters required that the information be provided within 30 days of the date of the letter and cautioned that failure to provide the information could result in a change of the station's status from Class A television to low power television. SMC failed to respond to the Division's letters or to file the required Children's Television Programming Reports. Accordingly, pursuant to Section 316(a) of the Communications Act of 1934, as amended,³ the Video Division issued an *Order to Show Cause* why the license for W14CK should not be modified to specify the station as a low power television station.⁴

3. SMC was afforded until March 30, 2012 to file a written statement why its license should not be so modified and was also notified that if no written statement was filed by that date, it would be deemed to have consented to the modification of the W14CK license from Class A television status to low power television status. SMC did not file a written statement in response to the *Order to Show*

¹ Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336. Beginning on the date of its application for Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full-power television stations." 47 U.S.C. § 336(f)(2)(A)(ii); *see also In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001); 47 C.F.R. §§ 73.6001, 73.6026. W14CK was granted Class A television status in 2003. *See* FCC File No. BLTTA-20010711ACM (granted Sept. 26, 2003).

² *See* 47 C.F.R. §§ 73.671, 73.3526 and 73.6026.

³ 47 U.S.C. § 316(a).

⁴ *Reclassification of License of Class A Television Station W14CK, Newport, Vermont, Order to Show Cause*, 27 FCC Rcd 2125 (Vid. Div. 2012). In addition to the period covering 2007 through 2010, the *Order to Show Cause* noted that SMC had also failed to file Children's Television Programming Reports for all four quarters of 2011.

Cause,⁵ and therefore, we deem it to have accepted the modification of the W14CK license to low power television status.⁶ Further, because SMC failed to file Children's Television Programming Reports (FCC Form 398) for the period 2007 through 2011 and has not responded to the Video Division's two letters regarding this failure or to the *Order to Show Cause*, we find that it has not fulfilled its obligations as a Class A licensee, and that the modification of its Class A license to a low power television license therefore serves the public interest.

4. IT IS THEREFORE ORDERED, pursuant to Sections 4(i), 316, and 332(f)(2)(A)(ii) of the Communications Act, 47 U.S.C. §§ 154(i), 316, 332(f)(2)(A)(ii), and Sections 1.87, 73.6001, and 73.6026 of the Commission's rules, 47 C.F.R. §§ 1.87, 73.6001, 73.6026, that the license for station W14CK, Newport, Vermont is modified from Class A television status to low power television status, effective as of this date.

5. IT IS FURTHER ORDERED, That a copy of this *Order* shall be sent by regular U.S. Mail and Certified Mail, Return Receipt Requested, to SMC Communications, Inc. as indicated below:

SMC Communications, Inc.
87 Lake Street
Rouses Point, New York 12979

SMC Communications, Inc.
732 Prospect Street
Champlain, New York 12919-5114

⁵ Pursuant to section 1.5 of the Commission's rules, the Commission directs official correspondence to the address contained in the licensee's most recent application, unless the licensee advises the Commission to the contrary, and licensees are required to make arrangements to ensure that documents delivered to the licensee's address of record will promptly reach the licensee or someone authorized to act on the licensee's behalf. 47 C.F.R. § 1.5. The *Order to Show Cause* was mailed by certified and regular U.S. mail to the Rouses Point address listed in SMC's most recent application, but the mailings were returned as undeliverable. We have no record of SMC having notified us that we should use any other address. After our efforts to serve SMC at its address of record failed, we undertook multiple additional measures to notify SMC. Specifically, we mailed the *Order to Show Cause* to the Champlain, New York address listed for the station in the BIA Media Access Pro Database ("BIA"). The certified mailing was returned by the U.S. Postal Service as unclaimed. The mailing sent via regular mail was not returned, and we presume that it was delivered. Although we cannot be certain that the licensee maintains an office at this address, we think our decision to send the *Order to Show Cause* to the Champlain address was reasonably calculated to reach SMC in light of the failed delivery to SMC's address of record, because this address is listed in a widely used industry database. We also tried to reach SMC by telephone and email. The telephone number listed for SMC in its most recent application has been disconnected, and an email sent by the staff to the email address listed in SMC's most recent Children's Television Programming Report was returned as undeliverable. The staff also forwarded the *Order to Show Cause* to the SMC email address provided in BIA but did not receive a response from SMC. In addition, the *Order to Show Cause* was published in the Commission's Daily Digest, Vol. 31 No. 9 (rel. Feb. 28, 2012)(accessible at http://transition.fcc.gov/Daily_Releases/Daily_Digest/2012/dd120228.html) and the FCC Record, and the March 25 and August 3, 2011 letters are attached to the station's records in the Commission's Consolidated Database System.

⁶ 47 C.F.R. § 1.87(g)(1), (h) (Absent good cause shown, the right to file a protest or have a hearing is waived if licensee does not file a timely protest or statement of intent to appear at a hearing, and "[w]here the right to file a protest or have a hearing is waived, the licensee . . . will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly.")

6. This action is taken pursuant to authority delegated by Sections 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau